

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JAMES A. WILSON, et al., :
 :
 Plaintiffs, :
 :
 v. : Civil Action No. 05-399-JJF
 :
 STANLEY TAYLOR, individually :
 and in his official capacity :
 as Commissioner D.O.C., and :
 RICK KEARNEY, individually :
 and in his official capacity :
 as Warden, S.C.I., :
 :

MEMORANDUM ORDER

Pending before the Court is a Motion For Temporary Restraining Order against Officer John Stolzenback of the Department of Correction filed by Plaintiff, James A. Wilson.¹ Plaintiff Wilson alleges that he felt threatened by Officer Stolzenback who was shaking a can of mace, told Plaintiff Wilson to "shut up," and questioned Plaintiff Wilson. Plaintiff Wilson further states that he believes Officer Stolzenback "is after him in any form or fashion."

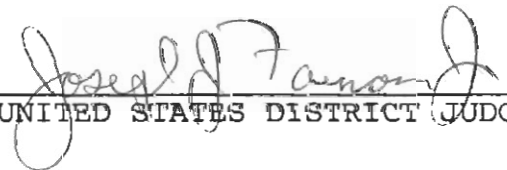
In determining whether to grant a restraining order, the Court must consider: (1) the likelihood of success on the merits, (2) the extent to which the Plaintiff is being irreparably harmed by the conduct complained of; (3) the balance of the hardships to the respective parties, and (4) the public

¹ The Court notes that this Motion appears to be filed solely by Plaintiff Wilson and not by the other plaintiffs to this action.

interest. The plaintiff bears the burden of showing immediate irreparable injury, Continental Group, Inc. v. Amoco Chemicals, Corp., 614 F.2d 351, 359 (3d Cir. 1980), and the requisite injury must be irreparable, not merely serious or substantial. Glasco v. Hills, 558 F.2d 179, 181 (3d Cir. 1977).

In this case, Officer Stolzenback is not named a party, and Plaintiff's allegations against Officer Stolzenback appear to be unrelated to this action. In addition, the Court concludes that Plaintiff has not demonstrated the irreparable harm needed to justify the relief Plaintiff seeks. Accordingly, the Court will deny Plaintiff Wilson's Motion For Temporary Restraining Order And Preliminary Injunction.

NOW THEREFORE, IT IS HEREBY ORDERED this 11 day of October 2005, that the Motion For Temporary Restraining Order And Preliminary Injunction (D.I. 20) filed by Plaintiff James A. Wilson is DENIED.


UNITED STATES DISTRICT JUDGE